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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF
WESTON T HARRIS TO PRACTICE AS
A HEARING INSTRUMENT SPECIALIST
IN THE STATE OF UTAH

STIPULATION AND ORDER

Case no DOPL 2006 - 180

Weston T Harris ("Respondent") and the Division of Occupational and Professional
Licensing of the Department of Commerce of the State of Utah ("Division") stipulate and agree
as follows

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the
subject matter of this action
- 2 Respondent acknowledges that Respondent enters into this Stipulation knowingly and
voluntarily
- 3 Respondent understands that Respondent has the right to be represented by counsel in
this matter. Respondent's signature below signifies that Respondent has retained Gregory S
Roberts as his counsel, and has reviewed this agreement with Mr. Roberts
- 4 Respondent understands that Respondent is entitled to a hearing before the Utah State
Hearing Instrument Specialist Licensing Board ("the Board") at which time Respondent may
present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses

Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing

5 Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities

6 Respondent admits the following

- a) Respondent placed advertisements stating that their hearing instruments would "bring your hearing back to normal " This statement was reported to a DOPL investigator by Respondent
- b) Respondent placed advertisements stating that his hearing instruments were manufactured in a lab which was approved by the U S Food and Drug Administration This statement was reported to a DOPL investigator by Respondent
- c) Respondent placed advertisements stating that certain hearing aids were sold at a sale price, when such prices were the Respondent's typical prices for those hearing aids
- d) Respondent placed advertisements stating that Medicare patients would receive a \$500 discount, which implied that qualified Medicare patients would receive partial coverage for the cost of their hearing aids
- e) Respondent failed to specify the exact amount of the cancellation fee in written receipts or contracts for hearing instruments sold during 2004 and 2005
- f) Respondent's employees failed to provide timely refunds of 85% of the purchase price for hearing instruments purchased by Virginia Wright and Art Morrison

7 Respondent agrees that the conduct described above is unprofessional conduct as defined by Utah Code Ann §§ 58-1-501(2)(h), 48-46a-501(4) (5), (6), and (16) and 58-46a-503 Respondent further agrees that the Division may enter an Order in this matter placing his license to practice as a hearing instrument specialist on probation for a period of three years and imposing the following restrictions on his license

- a) Respondent shall meet with the Board within thirty (30) days of the effective date of this Stipulation and Order which is the day it is executed by the Director of the Division Respondent shall then meet with the Board on a quarterly basis or at such

other greater or lesser frequency as determined by the Board and Division for the duration of the Stipulation and Order Respondent shall meet with an assigned Division staff member prior to the first Board meeting

- b) At the first meeting described in paragraph a) above, and at least every six months thereafter, Respondent shall provide the following documents to the Board Upon written request by the Division, Respondent shall attend the next scheduled meeting of the Board after providing the required information
 - i) A sample of the hearing instrument purchase receipt and contract used in the sale of hearing aids by him or any business in which he has an interest
 - ii) Representative samples of advertisements for him or his business currently running in any publication in the state of Utah
- c) Respondent shall not supervise hearing instrument interns during the period of this agreement
- d) Respondent shall maintain a current license at all times during the period of this agreement
- e) Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address
- f) Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status This notification is required regardless of whether Respondent is employed in Respondent's profession
- g) If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order
- h) If Respondent is arrested or charged with a criminal offense by any law enforcement agency in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity

for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

- i) In the event Respondent does not practice as a hearing instrument specialist for a period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome. Respondent must work at least sixteen (16) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession.
- j) Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit performance evaluations to the Board on a monthly basis for the first six months of probation and every six months thereafter. The receipt of an unfavorable report from an employer may be considered to be a violation of the terms of this Stipulation and Order. If the Respondent is not employed as hearing instrument specialist, Respondent shall submit the required employer report form to the Board on the date it is due and indicate on that form that Respondent is not currently employed in Respondent's licensed occupation or that Respondent is not currently working.
- k) Respondent shall provide to Respondent's employer(s) a copy of this Stipulation and Order and cause each employer to acknowledge to the Board in writing, that a copy of this Stipulation and Order has been provided to the employer.
- l) Upon request by Respondent and the execution of the appropriate document provided by the Division, Respondent may surrender his license to practice as a hearing instrument specialist in the State of Utah. Upon the effective date of the surrender which is the date it is adopted by the Director of the Division, the period of probation and all terms and conditions of probation shall be terminated.

8. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

9 Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's practice as a hearing instrument specialist

10 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order There are no verbal agreements that modify, interpret, construe or affect this Stipulation

11 The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions

12 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent including imposing appropriate sanction, in the manner provided by law Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction

13 Respondent has read each and every paragraph contained in this Stipulation and Order Respondent understands each and every paragraph contained in this Stipulation and

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Order Respondent has no questions about any paragraph or provision contained in this

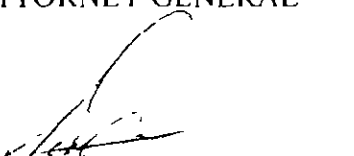
Stipulation and Order

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
CLYDE ORMOND
Bureau Manager

DATE 6/4/08


MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
LENORE EPSTEIN
Assistant Attorney General

DATE 6/4/08

BY 
WESTON T HARRIS
Respondent

DATE _____

BY 
GREGORY S ROBERTS
Counsel for Respondent

DATE 6/3/08

ORDER

THE ABOVE STIPULATION in the matter of WESTON T HARRIS is hereby approved by the Division of Occupational and Professional Licensing and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 4 day of June, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F DAVID STANLEY
Director